

Residential Development Standards Policy Paper

Summary

The Department of Ecology's SMP guidelines as stated in Chapter 173-26 WAC requires each jurisdiction to include development standards for residential development along the shoreline. Ecology acknowledges that single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

Ecology also states that without proper management, single family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. Shoreline Master Programs are required to include policies and regulations for residential development that assure no net loss of shoreline ecological functions. Additionally, provisions that include specific shoreline setbacks requirements for residential structures, buffer areas, density requirements, standards for shoreline armoring and vegetation conservation are required. Finally residential development, including appurtenant structures and uses, are to be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. (See RCW 90.58.100(6).)

Seattle's current Shoreline Master Program regulations do not include setback requirements, specific vegetation conservation measures, buffer areas, or density requirements. The current SMP regulations do contain standards for shoreline armoring; however, these standards are in need of an update. Therefore, DPD is proposing the following changes to the SMP regulations to meet the new SMP 173-26 WAC Guidelines:

- Adding new goals and policies, or revisions to existing goals and policies, to better meet the legislative intent and guidelines of the SMA.
- Updating the General Development Standards to include more specific information regarding potential impacts and required mitigation standards to assure no net loss of ecological functions.
- Including specific development standards for structure set back requirements, specific vegetation conservation measures, buffer areas, density requirements and updating stormwater management pending review of the proposed new stormwater code.
- Including additional standards for shoreline armoring.

Note: The updated Environmentally Critical Areas regulations include structure setback requirements and mitigation requirements for the removal of vegetation and the increase of impervious surface.

Key Issues

- Should new overwater residence be allowed?
- How should existing overwater residences be regulated?
- What structure setbacks are appropriate?
- How should we encourage and/or require vegetated buffers and low impact development practices?

Proposed Changes to the SMP

Intent

Seattle's current Shoreline Master Program regulates residential development mainly through the current General Development Standards (SMC 23.60.152). These standards are very general. The existing regulations do not require structure setback to protect shoreline ecological processes and functions. Additionally, there are no specific vegetation conservation requirements, buffer requirements, density requirements and the existing shoreline armoring section is twenty years old and is in need of revisions. Therefore the changes to the SMP that DPD proposes are intended to provide the required additional protection of the shoreline.

Changes to Comprehensive Plan Goals

The following changes to comprehensive plan policy LU231 are proposed (*strikeouts indicate deletions*):

Water-dependent uses: all uses that cannot exist in any other location and are dependent on the water by reason of the intrinsic nature of their operations. ~~However, b~~ Because of their historic role and legal recognition by the City, floating home moorage ~~are~~ ~~designated as a water-dependent use~~ is an allowed use; however, an increase in the number of floating homes and/or floating home moorage is not supported. ~~Such designation does not imply support for increase of floating home moorage.~~ The intent of this policy is to recognize the existing floating home community in Lake Union and Portage Bay, while protecting ~~natural areas~~ shoreline ecological function, preserving public access to the shoreline, and preventing the displacement of water-dependent commercial and manufacturing uses by floating homes. Areas with substantial concentrations of existing floating homes shall be given a designation that preserves residential uses.

The following goal is proposed to be added to Seattle's Comprehensive Plan:

Include development standards for residential development that protects shoreline ecological processes.

Changes to Comprehensive Plan Policies

The following policy is proposed to be added to Seattle's Comprehensive Plan: "Shoreline residential development should control pollution and prevent damage to the shoreline environment including shoreline ecological functions."

Changes to Land Use Code

The following changes to current regulations are proposed:

- Prohibit construction of new overwater residences including houseboats and prohibit overwater expansion of existing non-houseboat residences.
- Increase residential structure setback based on best available science. Evaluate additional setbacks near steep slope areas and critical habitat such as eel grass beds and forage fish spawning areas.
- In consolidating ECA and SMP regulations, apply management area regulations in ECA to whole 200' shoreline jurisdiction. Refer to shoreline structure setback as the shoreline buffer.
- Include more specific standards for mitigation as laid out in the December 16, 2008 Mitigation Policy Paper.
- Multifamily units are not a preferred use; establish policy limiting multifamily uses to where they are currently allowed.
- Consider options for implementing new WAC guideline that "new multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter".
- Consider new stormwater and Low Impact Development (LID) standards.
- Consider impervious surface limitations or other specific standards.
- Incorporate standards from clean marina program for large areas of moorage.
- Add milfoil as listed noxious weed to facilitate management.
- Include provisions regarding subdividing land.

Background Information

As discussed above, staff review of the current regulations of the SMP determined that the existing regulations do not provide the appropriate development standards for residential development to meet Department of Ecology's new WAC/SMP update requirements. The existing regulations and the new state guidelines are included here as a reference for your review and consideration of the proposed changes.

Existing Shoreline Master Program Regulations

Seattle Municipal Code 23.60.220 summarizes the purpose and location criteria for each of Urban Residential shoreline environments. Seattle Municipal Code 23.60.540 through

23.60.578 provides specific use and development standards for this environment. Other applicable code sections are detailed below.

SMC 23.60.152 General development.

(Provides general standards for all development in shoreline jurisdiction including residential development)

Environmental Critical Areas Regulations

25.09.200 B. Development Standards for Shoreline Habitat.

1. The provisions of this subsection B apply to all parcels with shoreline habitat defined in subsection 25.09.020 D6 or its buffer.

2. In addition, the provisions of subsection C below apply to parcels with shoreline habitat or its buffer, except subsection C2 with respect to fish. In the event of an irreconcilable conflict between the provisions of this subsection B and subsection C, the provision most protective of wildlife habitat applies.

3. Development is prohibited in shoreline habitat, except when all of the following criteria are met:

a. The development is allowed under Title 23, including chapter 23.60, the Shoreline Master Program; and

b. Mitigation is provided for all impacts to the ecological functions of fish habitat on the parcel resulting from any permitted increase in or alteration of existing overwater coverage.

4. Buffers.

a. Shoreline habitat has a one hundred foot (100') buffer from the ordinary high water mark.

b. Bioengineered solutions, such as using plants or other approved natural material, to stabilize the shoreline are allowed in the buffer, provided they are allowed under Title 23, including chapter 23.60, the Shoreline Master Program.

c. Other development for water dependent and water related uses is prohibited in the buffer, except when:

(1) The development is allowed under Title 23, including chapter 23.60, the Shoreline Master Program; and

(2) no vegetation is removed, the amount of impervious surface is not increased, and no surface that is permeable by water at the time of the application will be covered with an impervious surface so that impervious surface will be closer to the ordinary high water mark; or

(3) if any of the actions described in subsection c(2) above occur and that action impacts the ecologic function of the shoreline, those impacts are mitigated as set out in subsection below.

If the standards in subsections c(1) and (2) are met, then the application is not subject to the application submittal requirements in Section 25.09.330. and the general development standards in Section 25.09.060.

d. Other development for non-water dependent and non-water related uses is prohibited in the buffer, except when:

(1) The development is allowed under Title 23, including chapter 23.60, the Shoreline Master Program; and

(2) for non-residential uses

(a) the lot was in existence before the effective date of Ordinance 122050¹; and

(b) the development is twenty five feet (25') or more from the ordinary high water mark unless the development is allowed in the shoreline habitat under Title 23, including chapter 23.60, the Shoreline Master Program; and

(c) (i) no vegetation is removed, impervious surface is not increased and no net loss of ecological function of the critical area or buffer from other actions occurs; or

(ii) if any of the actions described in subsection d(2)(c)(i) above occur, all impacts on the ecological function are mitigated as set out in subsection e below; or

(3) for residential uses the residence is twenty five feet (25') or more from the ordinary high water mark

(a) and no vegetation is removed, impervious surface is not increased and no net loss of ecological function of the critical area or buffer from other actions occurs; or

(b) if any of the actions described in subsection d(3)(a) above occur, all impacts on the ecological function are mitigated as set out in subsection e below.

7. The following provisions apply to all parcels containing shoreline habitat and buffers to prevent impacts to the habitat and buffer:

a. Any increases in surface runoff from development shall be kept to a minimum, and surface water run off shall be controlled, treated and released so that receiving water quality and any shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers. Allowable means to achieve this include bioswales, catch basin filters, and other methods prescribed in Title 22, Subtitle VIII, the Stormwater, Grading and Drainage Control Code.

b. Pavement in the habitat and buffer shall be kept to a minimum and permeable surfacing, where practicable, shall be used to keep surface water accumulation and runoff into the habitat and buffer to a minimum. Recommended methods are found in Title 22, Subtitle VIII, Stormwater, Grading and Drainage Control Code. Permeable surfaces include, but are not limited to, porous asphalt, concrete, brick, or pavers; or plastic confinement systems with grass or gravel filler.

c. Best management practices shall be employed for the safe handling of fuels and toxic or hazardous materials to prevent them from entering the water. Direct runoff of these materials is prohibited. Best management practices shall be employed for prompt and effective clean-up of any spills that do occur. A spill prevention and response plan may be required by the Director.

d. Any cleaning or resurfacing operation occurring over water that may result in the entry of debris, such as paint chips, shall employ tarpaulins securely affixed above the water line to prevent material from entering the water. Prior to removing the tarpaulins, the accumulated contents shall be removed by vacuuming or an equivalent method that prevents material from entering the water.

e. No over-water application of paint, preservative treatment, or other chemical compounds is permitted, except in accordance with best management practices.

f. Wooden components that will be in contact with standing water or floodwaters shall not contain polycyclic aromatic hydrocarbons (PAH), creosote, pentachlorophenol, or similar toxic substances. Durable, non-toxic components are the preferred material for in-water and over-water structures. Where treated wood is considered necessary, it shall be applied and used in accordance with the American Wood Preserver Association (AWPA) standards for aquatic use.

g. For projects involving concrete, a concrete truck chute cleanout area shall be established to contain wet concrete. No concrete or clean out shall be allowed to enter the water body. This does not prohibit piers or other concrete structures authorized by a valid permit.

h. All inlets and catch basins shall be protected from fresh concrete, paving, paint stripping and other high-risk pollution generating activities during construction.

i. Construction staging areas shall be as far from the ordinary high water mark as practicable.

j. Planting native vegetation may be required to mitigate impacts of development on the shoreline habitat or buffer.

k. If at any time project-related activities cause a fish kill to occur, the permittee shall stop all work relating to the fish kill and immediately notify the Department of Planning and Development, Washington Department of Fish and Wildlife, and the Washington Department of Ecology.

l. In- and over-water structures shall be designed and located to keep impacts from shading of any bank and shallow water habitat to a minimum.

8. Removal of, clearing, or any action detrimental to habitat, trees or vegetation in shoreline habitat or its buffer is prohibited, except as authorized under subsections 1-6 above and section 25.09.320.

State Guidelines

WAC 173-26-211 (5) (f), “Shoreline residential” environments, provides management policies for shoreline residential environments and is detailed below.

173.26.211 (5) (f) Shoreline Residential environment purpose

(f) "Shoreline residential" environment.

(i) Purpose.

The purpose of the "shoreline residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

(ii) Management policies

(A) Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

Local governments may establish two or more different "shoreline residential" environments to accommodate different shoreline densities or conditions, provided both environments adhere to the provisions in this chapter.

(B) Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.

(C) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

(D) Commercial development should be limited to water-oriented uses.

(iii) Designation Criteria

Assign a "shoreline residential" environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW 36.70A.360, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

WAC 173-26-221 (5) and (6) provide guidelines for shoreline vegetation conservation and water quality that must be considered as well in determining use and development standards. Overall, these standards can be summarized as follows:

- No new overwater houses should be allowed. Accommodate current floating homes and expansions of these uses without impinging on legal rights of property owners.
- Make sure all development meets no net loss of ecological function.
- Prevent need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

WAC 173.26.241 (3) (j) provides the use standards for residential development and is detailed below:

173.26.241 (3) (j) Shoreline Use Standards

(j) Residential development.

Single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. Residential development also includes multifamily development and the creation of new residential lots through land division.

Master programs shall include policies and regulations that assure no net loss of shoreline ecological functions will result from residential development. Such provisions should include specific regulations for setbacks and buffer areas, density, shoreline armoring, vegetation conservation requirements, and, where applicable, on-site sewage system standards for all residential development and uses and applicable to divisions of land in shoreline jurisdiction.

Residential development, including appurtenant structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. (See RCW 90.58.100(6).)

New over-water residences, including floating homes, are not a preferred use and should be prohibited. It is recognized that certain existing communities of floating and/or over water homes exist and should be reasonably accommodated to allow improvements associated with life safety matters and property rights to be addressed provided that any expansion of existing communities is the minimum necessary to assure consistency with constitutional and other legal limitations that protect private property.

New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter.

Master programs shall include standards for the creation of new residential lots through land division that accomplish the following:

- (i) Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.
- (ii) Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.
- (iii) Implement the provisions of WAC 173-26-211 and 173-26-221.

173.26.201 2(d) Preferred Uses

- (iv) Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.